

APPENDIX A

DRAFT GUIDELINES FOR MUNICIPAL AGGREGATION

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I. PURPOSE AND SCOPE

- A. Purpose. These Guidelines set forth (a) the filing requirements, and (b) the rules governing municipal aggregations.
- B. Scope. These Guidelines apply to any municipality, or any group of municipalities acting together, within the Commonwealth of Massachusetts that participates in the competitive electric supply market by aggregating the electrical load of interested electricity consumers within its boundaries. G.L. c. 164, § 134(a).

II. DEFINITIONS

Automatic Renewal Notice refers to a notice sent to participating customers at the start of a new supply term notifying them that they will be automatically re-enrolled in the default product at the start of the new term unless they affirmatively opt out.

Basic Service refers to electric supply service by the local distribution company as defined in St. 2008, c. 169, § 57 and G.L. c. 164, § 1.

Competitive Supplier refers to any competitive supplier as defined in 220 CMR 11.02.

Consultant means a municipal aggregation consultant retained by a municipality, acting as an agent on behalf of such municipality, to develop, implement, and manage the municipality's Program (defined below).

Contract Summary Form means a document containing product information related to price, term, early cancellation fee (if applicable), automatic renewal, and renewable energy content as well as general information about the competitive supplier, the customer's distribution company, and products, the form and content of which is detailed in D.P.U. 19-07-A at 41-50.

Default Product means the product in which Eligible Customers will be enrolled, absent an affirmative choice to opt-out of the Program or opt in to an Opt-In Product.

Department refers to the Massachusetts Department of Public Utilities.

Education Plan refers to a public outreach and education plan filed by the Municipality as part of its filing submitted pursuant to G.L. c. 164, § 134(a).

Electricity Broker refers to an entity licensed by the Department pursuant to 220 C.M.R. 11.00 to facilitate or otherwise arrange for the purchase and sale of electricity and related services to retail electricity consumers in Massachusetts.

Eligible Customer refers to (1) Basic Service customers; (2) Basic Service customers who have informed the Electric Distribution Company they do not want their contact information shared with Competitive Suppliers for marketing purposes; and (3) customers receiving Basic Service plus an optional “green power” product that allows concurrent enrollment in either Basic Service or competitive supply. The following are not eligible customers: (1) Basic Service customers who have asked the Electric Distribution Company to not enroll them in competitive supply; (2) Basic Service customers enrolled in a “green power” product program that prohibits switching to a Competitive Supplier; and (3) customers receiving competitive supply.

Electric Distribution Company refers to the investor-owned company providing electricity service to the residents of a Municipality.

Language Access Document means a document meant to ensure that the Opt-Out Documents are meaningful to customers with limited English proficiency and other language access needs, by translating the following text into various languages spoken in the municipality: Important notice enclosed from [Municipality] about your electricity service. Translate the notice immediately. Call the number or visit the website, above, for help.

Municipality means a municipality or any group of municipalities acting together, as applicable, within Massachusetts pursuant to G.L. c. 164, § 134(a).

Municipal Aggregator refers to a Municipality or group of municipalities that aggregates the electric load of interested electric consumers within its boundaries with a certified energy efficiency plan pursuant to G.L. c. 164, § 134(b).

Non-automatic Renewal Notice refers to a notice sent to participating customers at the start of a new supply term notifying them that they must affirmatively re-enroll in the customer’s selected opt-in product, or otherwise affirmatively enroll in the default product or other opt-in product (where applicable), or they will be returned to basic service at the start the new term.

Opt-In Product(s) means any product other than the Default Product.

Opt-Out Documents means an Opt-Out Notice, a Language Access Document, an Opt-Out Reply Card, reply envelope, a Renewal Notices (defined below), and a Contract Summary Form.

Opt-Out Notice means a document detailing the Program, including Product information and rates, Basic Service information and rates, contract information, including duration and exit terms, all fees and their intended use, and directions for participating in and opting out of the Program or into Opt-In Products.

Opt-Out Reply Card means a card that a customer may return to the Program in Order to indicate their desire to either opt-out of the Program or opt-in to an Optional Product.

Plan means a municipal aggregation plan filed by a Municipality as part of its filing submitted pursuant to G.L. c. 164, § 134(a).

Program means a municipal aggregation program established to aggregate the electric load of Eligible Customers located within its municipal borders to procure electric supply for Program Participants.

Program Participants means Eligible Customers who do not opt-out of the Program pursuant to G.L. c. 164, § 134(a).

Renewal Notice refers to either the automatic renewal notice or the non-automatic renewal notice (both defined above) sent to customers at the start of a new supply term notifying them of their re-enrollment and/or other enrollment options, along with any price or renewable energy content changes in the Program’s product offerings.

III. UNIFORM FILING GUIDELINES

A. Filing Requirements

Each Plan filing must be accompanied by a petition, signed by counsel directly representing the Municipality. The petition must also identify a municipal official that will be responsible for receiving communications from the Department about the filing.

All supporting documents (e.g., exhibits, attachments described herein) filed with Plan petitions must adhere to the following organizational structure and naming conventions. Each supporting document shall be pre-marked for identification in the upper right-hand corner in the following format:

D.P.U.: [docket number]
 Exhibit:
 Municipality:
 Consultant:
 Page #: [# of # Format]
 Date:
 H.O.: [Name]

A cover sheet shall be included for each supporting document and will indicate if no documentation exists for that document, if applicable (e.g., where no public comments were received). Filers should submit electronically produced, searchable documents and avoid submitting scanned documents. The Department will, however, accept scanned documents when they cannot be created electronically. Furthermore, the PDF document (whether produced electronically or by scanning) shall be submitted with bookmarks for each exhibit, properly

labeled and organized per the structure identified below. The Department will not accept documents without an acceptable referencing system.

B. Municipal Aggregation Plan Components

Each Plan filing must contain the following components:

1. Procedural Requirements

a. Local Approval

A Municipality shall obtain authorization from its local governing body prior to initiating the process to develop a Plan. The Municipality should identify how local approval was obtained.

b. Consultation with DOER

A Municipality shall consult with the Massachusetts Department of Energy Resources (“DOER”) in developing its Plan. The Municipality should identify who participated in the consultation.

c. Public Review

A Municipality shall allow for public review of the Plan, meaning a Municipality shall:

1. Allow the public sufficient opportunity to provide comments on a proposed Plan prior to the Municipality filings its plan with the Department;
2. Make the proposed Plan available for public review for a minimum of 30 days;
3. Demonstrate that it took adequate steps to notify the public that the proposed Plan was available for review, including notice designed to address and be understood by members of the public within their Municipality who are hard to reach, have limited English proficiency, require audial or visual assistance, and/or may not routinely access the Municipality’s website;
4. Ensure that all components of the Plan, including sample Opt-Out Documents, shall be made available for public review;
5. Ensure that all known charges, including adders, to Program Participants shall be included in the Plan made available for review. To the extent a draft plan is amended to include a new charge to Program Participants or where there is a material change in the proposed definition or scope of such costs, a Municipality must demonstrate that the Plan revision was made available for public review; and
6. Ensure that customers, particularly Environmental Justice populations, as defined by the Executive Office of Energy and Environmental Affairs, are aware of the Plan and whether the Default Product contains renewable energy content above the Renewable Portfolio Standard.

The Municipality shall include supporting documentation of the above requirements (e.g., a copy of local authorization to pursue aggregation, a copy of the DOER consultation letter, etc.) as attachments to its Plan as specified below in Section III(C) (“Exhibit Designations”).

2. Elements of the Plan

a. Summary

A Plan must include a full and accurate description of each of the following Program elements:

1. the organizational structure of the Program, its operations, and its funding;
2. details on rate setting and other costs to its Program Participants;
3. the method of entering and terminating agreements with other entities;
4. the rights and responsibilities of Program Participants;
5. the procedure for terminating the Program; and
6. an Education Plan

b. Organizational Structure, Operations, and Funding

A Plan must explain at a minimum the person or entity responsible for each core function of the Program, including but not limited to, executing contracts, selecting Consultants (if any), education efforts, drafting and mailing of notices, addressing customer complaints, and overall Program organization structure.

A Plan must describe the key operational steps for the Program, such as: issuance of a request for quotes (“RFQ”) with a description of the RFQ criteria and renewable energy content requirements; issuance of a request for proposals (“RFP”) to qualifying bidders with a description of the RFP criteria; selection of winning bids and the procedure for a failed bid process; enrollment of customers, including initial enrollment, enrollment after initial opt-out period, and enrollment at the start of a new supply contract; and information disclosures process pursuant to 220 CMR 11.06(4)(c).

A Plan must also include a description of how the Municipality intends to fund the Program. If a third-party is responsible for funding certain functions, the Plan should identify such functions. *For example, the Municipality may decide that a Competitive Supplier is responsible for the costs of mailing all Opt-Out Documents.*

c. Rate Setting and Other Costs

A Plan must describe how the Municipality intends to set rates for customers. As discussed in Section III.B.2(d), below, the Municipality must identify whether it intends to charge groups of customers different rates.

The Municipality’s Plan must explain how the price for power supply and any renewable energy attributes will be established or changed. The Municipality must explain how changes in the price and/or renewable energy content of a product will be communicated to customers.

The Municipality should fully describe any products it intends to offer, including how the price and renewable energy content will be established. A Municipality may offer products with renewable energy certificates greater than the minimum required by the Commonwealth’s Renewable Portfolio Standard. The Municipality may specify the level of renewable energy certificates above the Renewable Portfolio Standard, or provide an estimated range. If the Municipality provides a range for renewable energy certificates, the Municipality must describe how it will determine the level of renewable energy certificates above the Renewable Portfolio Standard for each applicable product offering in its Plan. The Municipality’s Plan and supporting documents shall avoid the use of non-specific terms (e.g., “green”, “clean,” or “cleaner”) when naming or describing the product options.

A Plan must also include a description of any other charges assessed to customers, including adders to fund municipal employees, operation costs, and Consultants. The Municipality must include a description of how the amount of any charges or adders was or will be established and revised, how the charge or adder will be allocated, as well as any cap on the charge or adder. For each known charge or adder, the Municipality must provide the initial amount of the charge or adder. If the Municipality’s Plan indicates that it has not yet made a determination about whether to include a charge or adder intended to fund the costs of Program implementation, the Municipality shall identify the process and all criteria the Municipality intends to employ to determine whether to implement such charge or adder, as well as when such charge or adder would be implemented (e.g., at Program launch).

d. Method for Entering and Terminating Contracts

A Plan must describe how a Municipality intends to enter into contracts with other entities, including but not limited to, Competitive Suppliers and Consultants. The Plan should identify whether the Municipality will conduct a request for proposals or other method. The Plan should identify the process for evaluating bids and the person or entity responsible for negotiating and executing contracts. The Municipality should also fully explain the criteria used to evaluate potential contracts.

The Plan must also explain the process for exercising any renewal conditions or terminating contracts. The Municipality should identify the person or entity responsible for such decisions.

e. Rights and Responsibilities of Program Participants

A Plan must identify all rights and responsibilities of Program Participants. At a minimum, the Plan must:

1. Identify whether Program Participants will receive all-requirements service;
2. Describe the actions a customer must take to enroll in the Program;

3. Describe the actions a customer must take to leave the Program and return to Basic Service provided by the customer's Electric Distribution Company;
4. Identify any restrictions or penalties for joining or leaving the Program, including different pricing structures;
5. Explain the process and any restrictions for customers changing between product offerings (if the Municipality offers an Opt-In Product);
6. Explain the customer complaint procedure;
7. Describe the notification process for all changes in prices, Competitive Suppliers, and/or products; and
8. Describe, in detail, any differences in terms and conditions among customer classes.

f. Termination of Program

Describe under what circumstances the Program could be terminated and what occurs in the event of a termination. Identify the person or entity responsible for making the decision to terminate the Program and describe the notification process to Program Participants and the Electric Distribution Company under each scenario.

g. Education Plan

Describe in detail how the Municipality will undertake a broad-based effort to fully inform and educate customers of the Program and their rights and responsibilities, including vehicles to be employed (e.g., traditional print and TV channels, radio, social media, dedicated webpage, public presentations, public postings, community groups, personal communications, toll-free phone number) and why such vehicles were selected. Explain the Municipality's initial outreach efforts as part of the initial automatic enrollment process, as well as any on-going education efforts. Explain the actions the Municipality will undertake to ensure customers requiring visual or audial assistance and with limited English proficiency receive information about the Program, and their rights and responsibilities. Explain how the Municipality appropriately customized its education and outreach strategies to the Municipality's demographics.

The Municipality must specify that it will provide basic information about the Plan in a prominent location on its municipal website with appropriate links to the dedicated Program website. In addition, the Municipality shall specify that all Plan documents (including the Department-approved Plan, Education Plan, and Opt-Out Documents) and education materials will remain available and updated on the Program website.

3. Substantive Requirements

a. Universal Access

A Program shall provide for universal access. All customers residing in the Municipality shall have access to the Program whether through an automatic enrollment process or upon request of the customer to join the Program. The Plan must describe these processes consistent with the rules set forth in Section IV.C., below. The Plan must also include a detailed description of any proposed conditions or restrictions on participation in the Program.

All customers shall have the right to opt out of the Program at any time. Any penalties for opting out must be described in detail in the Plan.

All new eligible customers moving to the Municipality after Program initiation will (1) initially be placed on basic service and (2) subsequently receive a notice informing them that they will be automatically enrolled in the Program unless they opt out.

b. Reliability

A Plan shall provide for reliability. The Municipality must describe how it will make all necessary arrangements for power supply for Program Participants and serve customers continuously (*i.e.*, without suspending the Program). The Municipality must demonstrate that it has or will obtain the technical expertise and funding necessary to operate and manage the Program.

c. Equitable Treatment of All Customer Classes

A Plan shall provide for equitable treatment of all customer classes. This requirement does not mean that all customer classes must be treated equally; rather, customer classes that are similarly situated must be treated equitably.

The Municipality's Plan must describe in detail any pricing or terms and conditions that will vary among different customer classes. For example, the Municipality should identify whether it will solicit different pricing for different customer classes, whether some customers within the same customer class may receive different rates depending on when the customer joins the Program, and whether customer class prices may change on different intervals. The Municipality must explain why the varied treatment is appropriate to account for the disparate characteristics of each customer class.

All residential and small commercial and industrial customers must be treated similarly, including receiving the same terms of service.

The Plan must describe the various opt-out and opt-in enrollment and pricing procedures for eligible customers in each customer class in chart form.

C. Exhibit Designations

The Plan and other supporting attachments attached to the petition shall be filed with the following designations:

1. Attachment A: Opt-Out Documents

A-1: Sample Opt-Out Notice

A-2: Sample Opt-Out Reply Card

A-3: Sample Envelope

A-4: Exemplar Language Access Document

2. Attachment B: Further Supporting Documentation

B-1: Certified vote to pursue aggregation;

B-2: Minutes of all town meeting, town council, or city council meetings discussing aggregation;

B-3: Documentation demonstrating an opportunity for public review of the Plan, identifying the locations where and time period when the Plan was available for viewing, and identifying the period during which the Municipality was accepting comments;

B-4: Copies of the draft Plans made available for public review;

B-5: Public comments received by and any responses made by the Municipality regarding the Plan, regardless of whether within any official comment period; and,

3. Attachment C: Department of Energy Resources Consultation Letter

IV. PROGRAM OPERATION RULES

A. General

A.1 Municipal aggregation is a voluntary program and all retail electric customers have the right to opt out of participating in the Program.

A.2 All retail electric customers within the boundaries of the municipality, unless served by a municipal light plant, have the right to participate in the Program. The municipality may not deny a customer's request to join a Program; however, the municipality may impose reasonable restrictions or alternative pricing if specifically described in an approved Plan.

- A.3 Unless specifically exempt as indicated under Rule A.3.1 and A.3.2, municipal aggregations are governed by the rules and regulations that apply to Competitive Suppliers and Electricity Brokers.
- A.3.1 Municipal Aggregators are not required to obtain a license as an Electricity Broker pursuant to 220 CMR 11.05(2).
- A.3.2 Municipal Aggregators are not required to obtain customer authorization to enroll customers in the Program pursuant to G.L. c. 164, § 1F(8)(a) and 220 CMR 11.05(4).
- A.3.2.1 Municipal Aggregators are required to obtain customer authorization for all optional products offered through a Program.
- A.4 Municipal aggregation plans must be submitted to the Department for review and approval. Municipalities are responsible for all elements of their Program, including the actions of any Consultant acting on behalf of the Municipality. Municipalities must operate their Programs consistent with all requirements established by law and the Department regarding municipal aggregations and competitive electric supply. If a Municipality operates or offers products/services in a manner inconsistent with its plan, the Department will revoke its approval of the plan and order the termination of the program.
- A.5 Due to changes in market conditions and differences in contract terms, Municipalities and their Consultants cannot guarantee savings compared to Basic Service over time. All communications about Programs must contain a disclaimer that “savings cannot be guaranteed” in each instance where price is referenced, regardless of whether the reference is to “savings,” “price stability,” “economic benefits” or a like term.
- A.6 Municipalities may propose to include an adder in their Plans to offset the cost to the Municipality for operating the Program. These costs may include portions of salary for municipal employees working on the Program. The Department’s approval of any such adder does not permit the use of an adder for any purpose other than the Program. *For example, the adder is not permitted for renewable energy development, municipal electric vehicles, or any other municipal program whether energy or non-energy related.*
- A.7 The competitive supplier may only communicate with Program participants and/or use the lists of Eligible Customers and Program participants to send Department-approved educational materials, Opt-Out Notices, or other communications essential to the operation of the Program, and such lists may not be used by the competitive supplier to market any additional products or services to eligible customers or Program participants.

B. Program Launch

B.1 Proposed Launch Date

B.1.1 All petitions for approval of a Plan must include a proposed date for Program launch (i.e., the date customers may be enrolled onto the municipal aggregation's Competitive Supplier).

B.1.1.1 For Plans that may qualify for expedited review, the proposed date may assume Department approval within 120 days of filing (allowing for 30 days to determine compliance with expedited review requirements, and 90 days for Department review and decision).

B.1.1.2 For Plans that do not qualify for expedited review, the initial proposed date may assume Department approval within 180 days of filing; however, the Department will ask the Municipality to update the proposed date upon approval of the Plan.

B.1.2 If a Municipal Aggregator does not launch its approved Program by the launch date, the Municipality must submit a new proposed launch date to the Department and the Electric Distribution Company. The new proposed launch date may not be sooner than six months after the original launch date.

B.1.3 The Municipality must launch its Program within two years of Department approval. The Department's approval of the Plan will be revoked without further notice or other action by the Department if a Program is not launched within this timeframe.

C. Enrollment

C.1 Default Products

C.1.1 Initial Enrollment

C.1.1.1 Following Department approval of a Plan and prior to Program initiation, the Municipality shall submit a final Opt-Out Notice to the Director of the Department's Consumer Division for review and approval at least five business days prior to mailing the Opt-Out Notice to Eligible Customers. The Municipality shall also file the final Opt-Out Notice in the applicable docket. The final Opt-Out Notice shall contain all relevant prices.

C.1.1.2 Prior to enrolling any customers, the Municipality shall mail all Eligible Customers Opt-Out Documents and provide customers at least 30 days to opt-out, plus an additional six days to account for mailing.

C.1.1.3 After the required opt-out period expires, the Municipality may enroll all Eligible Customers that did not opt out of the Program with the Competitive

Supplier selected by the Municipality subject to the procedures established by the Electric Distribution Company.

C.1.2 Ongoing Enrollment

C.1.2.1 New Eligible Customers

C.1.2.1.1 When a customer establishes new service with an Electric Distribution Company after the initiation of the Program, that customer shall be considered an Eligible Customer. The customer shall be placed on Basic Service by the Electric Distribution Company, unless the customer chooses their own Competitive Supplier.

C.1.2.1.1.1 Nothing shall prevent the Municipality from enrolling a customer that establishes new service with an Electric Distribution Company after the initiation of the Program on an opt-in basis consistent with the rules for all Competitive Suppliers, including the requirement to provide the customer with a Contract Summary Form.

C.1.2.1.2 The Electric Distribution Company will notify the Municipality of new Eligible Customers.

C.1.2.1.3 Prior to enrolling new Eligible Customers, the Municipality shall mail the customers the Opt-Out Documents and provide the customers at least 30 days to opt-out, plus an additional six days to account for mailing.

C.1.2.1.4 After the required opt-out period expires, the Municipality must enroll all new Eligible Customers that did not opt out of the Program with the Competitive Supplier selected by the Municipality subject to the procedures established by the Electric Distribution Company.

C.1.2.2 Customers Ineligible for Automatic Enrollment

C.1.2.2.1 Customers that are not eligible for automatic enrollment at the initiation of a Program may join the Program on a voluntary, opt-in basis.

C.1.2.2.2 The Municipality must enroll customers under this category on an opt-in basis consistent with the rules for all Competitive Suppliers, including the requirement to provide the customer with a Contract Summary Form.

C.1.2.2.3 The Municipality may impose reasonable restrictions or alternative pricing if specifically described in an approved Plan.

C.1.2.2.3.1 The Department does allow Municipal Aggregators to offer large commercial and industrial customers a market-based price instead of the Program's contract rate if the large commercial and industrial customer previously opted out of the Program or was not considered an Eligible Customer.

C.1.2.2.3.2 If the Municipal Aggregator advertises its Program prices for a customer class, including on the Department's Energy Switch website, the Municipality must honor its advertised price to all customers that seek to enroll in the Program regardless of whether the Municipality's Plan provides the Municipality the option to offer an alternative price.

C.1.2.2.4 To the extent the Municipality may seek to generally inform customers that are not eligible for automatic enrollment about the availability of its Program, it must clearly disclose that such customers may be subject to penalties or early termination fees if they switch from competitive supply to the Municipality's Program during the customer's competitive supply contract term.

C.1.2.3 Customers Switching from Optional Product to Default Product

C.1.2.3.1 All customers enrolled in a Municipal Aggregator's Opt-In Product must be allowed to switch to the Default Product on a voluntary opt-in basis.

C.1.2.3.2 The Municipality must enroll customers under this category on an opt-in basis consistent with the rules for all Competitive Suppliers, including the requirement to provide the customer with a Contract Summary Form.

C.2 Opt-In Products

C.2.1 Initial Enrollment

C.2.1.1 Following Department approval of a Plan and prior to Program initiation, the Municipality shall submit a final Opt-Out Notice, including a description of Opt-In Products, to the Director of the Department's Consumer Division for review and approval at least five business days prior to mailing the Opt-Out Notice to Eligible Customers. The Municipality shall also file the final Opt-Out Notice in the applicable docket. The final Opt-Out Notice shall contain all relevant prices, including Opt-In Products.

C.2.1.2 The Municipality shall mail all Eligible Customers Opt-Out Documents and provide customers with instructions on how to sign up for an Opt-In Product.

C.2.1.3 If a customer elects an Opt-In Product, the Municipality must enroll customers on an opt-in basis consistent with the rules for all Competitive Suppliers, including the requirement to provide the customer with a Contract Summary Form.

C.2.1.4 The Municipality must notify customers electing an Opt-In Product whether the customer may be automatically renewed in the product at a different price and the conditions of automatic renewal.

C.2.2 Ongoing Enrollment

C.2.2.1 The Municipality may allow customers to enroll in its Opt-In Products on an ongoing basis. If a customer elects an Opt-In Product, the Municipality must enroll customers on an opt-in basis consistent with the rules for all Competitive Suppliers, including the requirement to provide the customer with a Contract Summary Form.

C.2.2.2 The Municipality must notify customers electing an Opt-In Product whether the customer may be automatically renewed in the product at a different price and the conditions of automatic renewal.

C.3 Customer Notifications

C.3.1 Opt-Out Documents

C.3.1.1 Opt-Out Notice

C.3.1.1.1 The Opt-Out Notice must inform Eligible Customers that they will be automatically enrolled in the Program unless they return the postmarked reply card by the identified date. The date by which customers must postmark the reply card must appear in a prominent location and color at the top of the first page of the Opt-Out Notice.

C.3.1.1.2 The Opt-Out Notice must prominently identify all Program charges and fully disclose the Basic Service rate.

C.3.1.1.3 The Opt-Out Notice must also:

- State that customers have the right to opt-out and describe how a customer may opt out of the Program;
- State that customers may leave the Program at any time and disclose any terms or conditions for leaving the Program (including that large commercial and industrial customers may be subject to a bill recalculation if they leave Basic Service and enroll in the Program);

- Explain that the customer will continue to be automatically enrolled in the Program even if the price or Competitive Supplier change;
- Note that prices may increase as a result of a change in law;
- State whether Program prices include applicable taxes;
- For any charge or adder designed to offset the Municipality's costs for operating a Program, including costs to support employees such as an energy manager, the Municipality must disclose how much revenue the charge or adder is designed to generate annually.

C.3.1.1.4 The Municipality may include information required to be included in the Contract Summary Form established in D.P.U. 19-07 within the Opt-Out Notice for the Default Product or may provide the Contract Summary Form as a separate document.

C.3.1.2 Reply Card

C.3.1.2.1 The reply card must inform Eligible Customers that they will be automatically enrolled in the Program unless they return the postmarked reply card by the identified date. The date by which customers must postmark the reply card must appear in a prominent location and color on the reply card.

C.3.1.2.2 The deadline for postmarking the reply card must allow at least three business days prior to the intended date of enrollment, in order to allow time for the reply card to be delivered to the Municipality or its Competitive Supplier.

C.3.1.2.3 The reply card must be accompanied by a return-addressed, postage-paid reply envelope to designed to protect customers' signatures from exposure.

C.3.1.3 Opt-Out Documents Envelope

C.3.1.3.1 The Opt-Out Documents, including the Opt-Out Notice and reply card must be sent in a clearly marked municipal envelope that identifies it contains important information regarding participation in the Program.

C.3.1.3.2 Municipalities must include in the Opt-Out Documents Envelope a Language Access Document that translates the following text

into the top 26 languages spoken by Massachusetts residents with limited English proficiency according U.S. Census Bureau:

Important notice enclosed from [Municipality] about your electricity service. Translate the notice immediately. Call the number or visit the website, above, for help.

C.3.1.3.3 Municipalities are expected to customize their outreach efforts to satisfy the language access needs of their residents and businesses. Municipalities must provide translated Opt-Out Documents to residents and businesses who are limited English proficient and make translated documents available electronically in languages spoken by at least three percent of its residents.¹

C.3.2 Contract Summary Form

C.3.2.1 A Municipality shall provide Contract Summary Form information to Eligible Customers in accordance with the following sections. The Contract Summary Form information shall include product information related to price, term, automatic renewal, and renewable energy content, as well as general information about the Competitive Supplier and the customer's Electric Distribution Company. The specific language and format shall comply with the Department's directives in D.P.U. 19-07-A.

C.3.2.2 Default Product - The Municipality shall include Contract Summary Form information for the default product within the Opt-Out Notice.

C.3.2.3 Optional Products - The Municipality shall ensure that each customer that elects to enroll in an Optional Product receives the Contract Summary Form information after that election.

C.3.3 Changes in Price, Renewable Energy Content, Competitive Supplier, or Contract Term

C.3.3.1 The Municipality shall mail direct notice to all Program Participants at least 30 days prior to a change in: (1) price, (2) charges or adders, (3) renewable energy content (other than changes due to the Renewable Portfolio or Clean Peak standards), (4) Competitive Supplier serving the Program, or (5) at the start of a new contract. The notice shall clearly describe the changes and explain how a customer may opt out of the Program. The notice must comply with all language access and design requirements specified in Rule C.3.1.

¹ Municipalities may access an interactive languages spoken in Massachusetts map at <https://mass-eoea.maps.arcgis.com/apps/webappviewer/index.html?id=dfdfbf9c109647fc9601f7524c1fd9f4>.

C.3.3.2 Customers enrolled in a Program’s Default Product must receive an Automatic Renewal Notice and shall remain enrolled in the product subject to the new prices, terms, and contract unless the customer opts out.

C.3.3.3 Customers enrolled in a Program’s Opt-In Product must receive an Automatic Renewal Notice shall remain enrolled in the product subject to the new prices, terms, and contract unless the customer opts out, provided that the renewable energy content of the product remains consistent with the level at which the customer originally enrolled.

C.3.3.3.1 Municipalities may offer an Opt-In Product that allows a customer to elect a range of renewable energy certificates above the Renewable Portfolio Standard rather than a specific level of renewable energy certificates, provided the range is no more than a five percent range. In this case, if (1) the customer affirmatively chose a product with a renewable energy content that is based on a range, and (2) the change in renewable energy content is within that range, then the Municipality may automatically enroll the customer on the Opt-In Product subject to the new prices, terms, and contract unless the customer opts out.

C.3.3.4 Customers enrolled in a Program’s Opt-In Product must receive a Non-Automatic Renewal Notice and must affirmatively re-enroll in an Opt-In Product if the Municipality changes the renewable energy content of the product. If the customer does not re-enroll, the customer may affirmatively elect a different product, including the Default Product, or must be returned to Basic Service.

C.3.3.5 In the event that the Municipality changes the price of any of its products due to a change in law, the Municipality must notify the Department no less than ten business days prior to the customer notification and include a copy of the proposed notice as well as any media releases, website postings, and other communications the Municipality proposes to provide to customers regarding the change in price.

C.3.3.6 In each of the price-change notification scenarios addressed above, the Towns must comply with all other language access and design requirements specified by the Department.

D. Program Changes

D.1 Amended Plans

D.1.1 The Municipality shall amend its Plan and submit the amended Plan for Department review if the approved Plan no longer fully and accurately describes the operations of the Program. Examples of changes in operations that require an amended plan include, but are not limited to:

- *Any new product a municipality seeks to make available to its municipal aggregation program participants is subject to Department approval (i.e., the Municipality seeks to change the Renewable Energy Certificate content of its Default Product;*
- *The Municipality seeks to assess a new charge or adder not included in its approved Plan;*
- *The method for entering contracts changes, including the person or entity responsible for executing the contract;*
- *The manner in which the Municipality sets its prices changes;*
- *The Municipality eliminates the use of an Electricity Broker as a Consultant, or if it hires a Consultant which is not an Electricity Broker.*

D.1.2 The Municipality must provide the public an opportunity to review and comment on any amended plan consistent with the public review process outlined above.

D.1.3 An amended plan must comply with all requirements established by law and the Department regarding municipal aggregation and competitive electric supply. A Municipality must demonstrate that the amended plan still provides for universal access, reliability, and equitable treatment of customers.

D.1.4 The Municipality may continue operating its Program during the Department's review of an amended plan. Until the Department approves an amended plan, the Municipality may not assess new charges or adders, change the renewable energy content of products in a manner inconsistent with its approved Plan, or implement restrictions, rights or responsibilities on customers that differ from the approved Plan.

D.2 Electricity Broker/Consultant Changes

D.2.1 The Municipality shall notify the Department in writing in the event it hires a different Electricity Broker licensed in Massachusetts as a Consultant from the one employed when the Department approved its Plan. Such notice shall (1) identify the new Electricity Broker, (2) describe the new Electricity Broker's technical expertise to operate the Program, including any previous experience operating Programs, and (3) identify counsel who will represent the Municipality at the Department in connection with the Program.

D.3 Program Termination

D.3.1 In the event that the Municipality decides to move its customers to Basic Service, that Municipality's Program shall be considered terminated.

D.3.1.1 It is the responsibility of the Municipality's Competitive Supplier to return Program Participants to Basic Service of the Electric Distribution Company in accordance with the then-applicable rules and procedures.

D.3.2 The Municipality shall, 90 days prior to a planned Program termination, notify: (1) the service list for the docket in which the Department approved the Municipality's Plan, (2) the Director of the Department's Consumer Division, and (3) the Electric Distribution Company. Such notice shall include copies of all media releases, website postings, and all other communications the Municipality intends to provide to customers regarding termination of the Program and return to Basic Service.

D.3.3 In the event the Municipality that has terminated its Program wishes to again offer a Program, it must reinitiate the full process of municipal aggregation, including obtaining a new local approval and filing a new Plan for Department review. The new Plan must include an explanation of all changes in the Program to ensure that the Program will operate in a reliable manner and avoid another termination.

D.3.3.1 The Municipality that terminated its Program shall not begin to initiate the process of aggregation again until at least one year following the date of termination of the Program, i.e., the date all customers were switched from the Program to Basic Service.

V. DEPARTMENT REVIEW OF MUNICIPAL AGGREGATION PLANS

A. Expedited Review

The Department will prioritize the review of new Plan filings that comply with these Guidelines, as well as all elements described in the Template Plan (attached to this proceeding as Appendix B), including the specific requirements concerning expedited review set forth therein, over those new Plan filings that do not. Specifically, the Department will seek to conduct its review of a proposed Plan within 90 days from the date the Plan is determined eligible for expedited review. The Department will seek to conduct its initial assessment of whether the municipality has presented a Plan eligible for expedited review within 30 days of filing. Therefore, an expedited review is expected to be conducted within 120 days of initial Plan filing (30 days to determine compliance with expedited review requirements, and 90 days for Department review and decision).

Municipalities shall indicate in their initial filing petitions whether they seek expedited review by the Department of their proposed Plan. Such request shall be accompanied by a supporting explanation as to how the Municipality qualifies for such expedited review.

B. Plan Review Conference

After a public hearing is held, the Department may, at its discretion, schedule a conference with the Municipality, or group of Municipalities in the case of a joint Plan, to discuss the filing (“Plan Review Conference”). During the Plan Review Conference, Department staff will go over the key elements of the Plan with municipal officials and discuss any areas that may need revision or clarification. After the Plan Review Conference, the Department may request a revised plan or supplemental information to aid in the Department’s final ruling.

C. Final Decision and Guidelines

The Department will issue a written Order with its final decision on all Plans. In the case of a Plan that qualifies for expedited review as described above, the Department will issue an Order within 90 days of the date the Plan is determined eligible for expedited review.

If approved, the Municipality may implement its Plan consistent with all Department directives, and the rules established in these Guidelines. The Guidelines may be updated from time to time through a general investigation. In the event the Guidelines are updated, after notice and an opportunity for comment, all Municipalities with approved Programs must follow the updated rules established in the Guidelines.